

## Memorandum

To: FPRA Board

From: John Tompeck, Director of Utilities

Date: October 28, 2019

Subject: King Plant Cleanup-Voluntary Tax Credit Certificate E101044 (\$500,000)

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The FPRA is in receipt of the subject tax credit certificate. This is the last tax credit certificate associated with the King Plant cleanup. In the past, receipt of the tax credit certificate resulted in a FPRA resolution to sell the tax credit (usually at 85-90% of face value) and the proceeds were to be used to pay off loans obtained through the Treasure Coast Regional Planning Council. The previous FPRA resolutions (approval date and amount) are listed below:

Resolution 15-06	10/19/15	\$1,097,140.19
Resolution 16-05	10/17/16	\$ 500,000.00
Resolution 18-02	4/16/18	\$ 174,147.43
Resolution 18-04	10/15/18	\$ 325,852.57

All of the resolutions had similar wording, which was reflected in Section 2 of the resolutions, which stated:

“The net proceeds of the sale authorized by Section 1 of this resolution shall be used to pay down all loans of the Fort Pierce Redevelopment Agency as incurred with the Treasure Coast Regional Planning Council revolving loan fund for the remediation of the H. D. King site with any remaining funds to then be transferred to the Fort Pierce Utilities authority to be used as reimbursement of costs incurred by the Fort Pierce Utilities Authority as part of the remediation of the H. D. King site, which costs of the Authority are not covered by the Treasure Coast Regional Planning Council Revolving Loan fund.”

To refresh your memory, FPUA spent \$3.3M which were not part of the TCRPC Revolving Loan Fund. Returning funds in excess of our expenditures was a reasonable offset to our costs, recognizing it would only offset a small portion of our costs. All the loans were repaid with the sale of the tax certificates associated with the last resolution, Resolution 18-04.

At the FPRA meeting last Monday, Agenda item 6A stated “Direction as how to proceed with the future sale of final bonus voluntary cleanup tax credit certificate E101044”. It was obvious to me that a change in course was being evaluated by staff, although no information was included in the agenda package. During the public comment section of the meeting, I voiced my concern and reminded the Board of our previous agreements which included return of excess funds to

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FPUA. At the meeting, FPRA staff presented an alternate way to utilize the funds in the form of a “redevelopment incentive program”. In other words, the funds would not be returned to FPUA.

A little background on this issue may be helpful. The FPUA Board passed Resolution 2015-02 at the July 7, 2015 Board meeting. Section III of the resolution specifically states:

“It is further requested that any funds remaining over and above full payment of loans be paid to Fort Pierce Utilities Authority to offset any other costs incurred by Fort Pierce Utilities Authority as part of the remediation of the H. D. King Site and not covered by the Treasure Coast Regional Planning Council” Revolving Loan Fund”.

This resolution was discussed in detail at the July 20, 2015 FPRA meeting (Item 7B). I think it would be beneficial for you to review the video of this item. Commissioner Becht was very specific in his comments that FPUA should receive any proceeds after the loans are paid off. There was a general consensus of agreement with the FPUA resolution and a motion was passed directing staff to develop a similar resolution. That direction was not carried out by staff, but at the next FPRA meeting in October 2015, the first resolution (15-06) was passed with the appropriate wording which mirrored the wording in our resolution. The subsequent resolutions all contained the identical wording in Section 2 shown under paragraph 2 above.

In the simplest of terms, now that the loans have been paid off, the FPRA has decided to ignore the previous agreements and keep the tax credit proceeds for themselves. It is disingenuous to require FPUA to be responsible for the loans and then change your position now that there is an overage that is supposed to be returned to FPUA.

Over the last 2+ years, FPUA has made considerable advances in helping the City. One of our main strategic planning initiatives has been helping the City grow. Included in this effort, we donated the FPUA owned parcel of land west of 2nd Street to help with development of the King Plant site. We’re disappointed that the FPRA is considering not returning these funds to FPUA. Cooperation is a two-way street, and renegeing on prior agreements is not acting in good faith.

No agreement on direction was made at Monday’s meeting and a decision will be made at the special FPRA meeting on November 12, 2019. Based on the above information, we respectfully request that the FPRA Board votes to return to FPUA all funds over and above the full payment of loans.

My first responsibility to our customers is to protect their money, whether it be budget/rate control or collecting financial obligations due us. FPUA considers the return of the excess funds to be an outstanding obligation of the City (FPRA) to FPUA.

Feel free to contact me if you have any comments or wish to discuss.



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Thank you in advance for your consideration.

cc: R Koblegard, FPUA Attorney  
P Sweeney, City Attorney  
N Mimms, City Manager  
FPUA Board